UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF NEW YORK

MICROSOFT CORPORATION,	))
Plaintiff,	))
v.	))
DATATERN, INC.,	))
Defendant.	) CIVIL ACTION NO. 1:11-cv-02365-KBF) CIVIL ACTION NO. 1:11-cv-02648-KBF)
SAP AG and SAP AMERICA, INC.,	))
Plaintiffs,	) **DEFENDANT DATATERN, INC.'S**) **NOTICE OF MOTION TO**
v.	) **FILE THE EXPERT REPORT OF**) **NEERAJ GUPTA IN SUPPORT OF**) **THE REQUEST FOR ENTRY OF**) **DECLARATORY JUDGMENT OF**
DATATERN, INC.,	) **NON-INFRINGEMENT AND FOR**) **DISMISSAL WITHOUT PREJUDICE**) **OF PLAINTIFFS' INVALIDITY**) **CLAIMS UNDER SEAL**

PLEASE TAKE NOTICE that upon the supporting Memorandum of Law filed herewith,

defendant DataTern, Inc. ("DataTern") by and through its attorneys, McCarter & English, LLP,

will request this Court, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl

Street, New York, New York, on such date and time specified by the Court, Court enter an order

allowing DataTern to file the Expert Report of Neeraj Gupta in support of DataTern's Request

for Declaratory Judgment of Non-Infringement in favor of Plaintiffs Microsoft Corp.

("Microsoft"), and SAP AG and SAP America, Inc. ("SAP") (collectively "Plaintiffs"), and for

the dismissal without prejudice of Counts I and II of Plaintiffs' Complaints, under seal.

ME1 14084968v.1

PLEASE TAKE NOTICE that opposition papers, if any, must be served in accordance with Local Rule 6.1(b).

September 7, 2012

McCARTER & ENGLISH, LLP

/s/ Lee Carl Bromberg_____
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Attorneys for Defendant
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CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the above Notice of Request to File the Expert Report of Neeraj Gupta Under Seal was served on this 7th day of September, 2012 upon counsel of record for Microsoft Corp., SAP AG and SAP America, Inc. via *ECF*.

/s/ Lee Carl Bromberg_____
Lee Carl Bromberg